

United States District Court

Western DISTRICT OF Texas

FILED
JUL 23 2007
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY CLERK

UNITED STATES OF AMERICA

V.

Rey ORTIZ

CRIMINAL COMPLAINT

CASE NUMBER:

07-M-35956

I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about **07-20-07** in **El Paso County**, in the **Western District of Texas** defendant(s) did, knowingly and intentionally possess with the intent to distribute **Marijuana**, to wit: approximately **239.1 pounds** (gross weight) of **Marijuana**, a Schedule I Controlled Substance; and did knowingly and intentionally import into the United States from the Republic of Mexico, approximately **239.1 pounds** (gross weight) of **Marijuana**, a Schedule I Controlled Substance in violation of **Title 21 United States Code, Section(s) 841(a)(1) and 952(a)**.

I further state that I am an **United States Immigration and Customs Enforcement Special Agent** and that this complaint is based on the following facts:

See Attached Affidavit

Continued on the attached and made a part hereof: X Yes No

[Signature]
Signature of Complainant
SA Spisak, Special Agent

Sworn to before me and subscribed in my presence,

07-23-07

Date

Richard P. Mesa
~~Norbert J. Garney~~, U.S. Magistrate Judge
Name & Title of Judicial Officer

El Paso, Texas

City and State

Richard P. Mesa
Signature of Judicial Officer

AFFIDAVIT

On 07-20-07, at approximately 2310, Rey ORTIZ applied for entry into the United States from the Republic of Mexico at the Ysleta Port of Entry, El Paso, Texas. ORTIZ was the driver and sole occupant of a 1982 Ford F-150 pick-up bearing Texas registration. The back of the pick-up was laden with various pieces of wood furniture which was wrapped and packaged for delivery.

ORTIZ approached lane number 1 primary inspection booth. ORTIZ stated that he was a United States citizen and gave a negative declaration to United States Customs and Border Protection (CBP) Officer CBP Officer John Quinones. While taking a declaration from ORTIZ, CBP Officer John Quinones walked around to the bed of the vehicle and inspected a random piece of furniture located within the truck bed. Attempting to lift one of the furniture pieces CBP Officer Quinones noticed it seemed heavier than he thought it should have been. CBP Officer John Quinones noticed that ORTIZ appeared to be jittery and nervously gripped the steering wheel tightly. CBP Officer Quinones called for assistance from CBP Officer Oscar Garcia and Canine Enforcement Officer (CEO) Roberto Hernandez.

ORTIZ gave a negative declaration to CBP Officer Oscar Garcia stating that he was a United States citizen. CBP Officer Oscar Garcia noticed that ORTIZ appeared to be nervous by avoiding direct eye contact and having shaky hands. Canine Enforcement Officer (CEO) CBP Officer Roberto Hernandez, along with Narcotics Detector Dog (NDD) "Vegas" (CC55), inspected the vehicle. After being placed in the bed of the vehicle, "Vegas" (CC55) alerted positively to the odor of a controlled substance within the furniture in the back of the pick up vehicle. ORTIZ was escorted to the CBP office. Subsequent inspection of the vehicle indicated a non-factory compartments located within the furniture in the back of the pick up vehicle and inspection of the non-factory compartments revealed tape wrapped bundles. One bundle was probed and a green leafy substance was extracted, field-tested which yielded a positive result for Marijuana. A total of 226 tape wrapped bundles were removed from the compartment for a total weight of 239.1 pounds (gross weight) of Marijuana.

United States Immigration and Customs Enforcement (ICE) Special Agent (SA) SA Spisak and SA SA Telles arrived at the Ysleta Port of Entry and began an investigation. SA Spisak read ORTIZ his Miranda Statement of Rights in the English language. ORTIZ acknowledged in writing that he understood his rights and he agreed to make a statement without the presence of an attorney. SA Spisak and SA Telles conducted an interview with ORTIZ.

During the interview with ICE Agents, ORTIZ admitted that he was aware that the vehicle he was driving was loaded with marijuana. ORTIZ told ICE Agents that he was going to be paid \$500 USD to transport the vehicle from Juarez, Mexico to Socorro, Texas and park it in his boss's driveway. ORTIZ informed ICE Agents that he only knew his boss by the name "Martine". ORTIZ explained at approximately 1600 hours he went to "Martine's" house and was offered the job to transport the vehicle. A short

time later, after agreeing to transport the vehicle, "Martine" drove ORTIZ to a restaurant in Juarez, Mexico where they ate dinner and had a few drinks. It was at this time that "Martine" gave ORTIZ possession of the loaded pick-up which was pre-staged at the restaurant. At approximately 2300 hours ORTIZ left the restaurant and attempted to cross the vehicle using the Ysleta Port of Entry.

I make this affidavit on the basis of my personal knowledge, as well as the basis of information furnished to me by other law enforcement officers.

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SA Spisak, Case Agent